

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**IN RE:**

**SCHAD JONTE HANEY  
AMANDA JAYNE HANEY  
SSN: xxx-xx-2393/xxx-xx-7204**

**22906 Shell Shores Drive  
Bullard, TX 75757**

**DEBTOR(S)**

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**CASE NO. 16-60532**

**CHAPTER 7**

**MOTION TO DISMISS DEBTOR SCHAD HANEY FROM JOINT CHAPTER 7  
CASE PURSUANT TO 11 U.S.C. §§ 707(A) AND 727(A)(8)**

**Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.**

**No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.**

**TO THE HONORABLE BANKRUPTCY JUDGE:**

1. This Motion to Dismiss is filed by Debtors' counsel ("Movant") because of an eligibility difference that exists between the debtors.

**II. BACKGROUND**

2. On August, 29, 2016, Debtors Schad and Amanda Haney filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code. On February 28, 2019, Debtors filed Notice of a Voluntary Conversion to Chapter 7, pursuant to 11 U.S.C. § 1307(a).

3. Debtor Schad Haney had previously filed for relief under Chapter 7, on August 7, 2009. He received a Discharge under 11 U.S.C. § 727, on November 4, 2009. The joint-debtor,

Amanda Haney, was not married to the debtor at that time. Debtors present case was filed under Chapter 13 on August 29, 2016. The two file dates are within eight years.

4. Debtor Schad Haney is not eligible to a Discharge pursuant to 11 U.S.C. § 727(a)(8), which provides that a debtor should be denied a discharge in the current case if the debtor has been granted a discharge under Chapter 7 in a case commenced within eight (8) years before the date of the filing of the current petition. However, the joint-debtor, Amanda Haney, is eligible for a Chapter 7 Discharge. She has not received a Discharge under any Title 11 Chapter within the eight year period prior to August 29, 2016.

5. The Chapter 7 Trustee, Michael J. McNally, has confirmed his position of "No Distribution" following the Debtors' 341(a) hearing of April 5, 2019.

WHEREFORE, Movant respectfully prays that the foregoing Motion to Dismiss Debtor Schad Haney from this joint Chapter 7 case be Granted, that the joint-debtor be allowed to continue the prosecution of her Chapter 7 case, and that such other relief be granted as may be appropriate under the circumstances.

Date: 4/15/2019

/s/ Gordon Mosley  
**GORDON MOSLEY**  
**SBN: 00791311**  
4411 Old Bullard Rd., Ste. 700  
Tyler, Texas 75703  
(903)534-5396; (903)581-4038 fax  
*gmosley@suddenlinkmail.com*

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss was forwarded via First Class Mail (or electronic mail) on the parties listed below and to those on the attached list.

Date: 4/15/2019

/s/ Gordon Mosley

**CHAPTER 13 TRUSTEE**

Carey D. Ebert  
110 N. College Ave., Ste. 1200  
Tyler, Texas 75702